6.

THE POWER OF PARLIAMENTS Asserted,

By *G. H.*

In a Letter to a Friend, lately Chosen a Member of the House of COMMONS.

In Answer to an Indigested Paper by *E. F.*

Called a Letter from a Gentleman of Quality, to his Friend, upon his being Chosen a Member to serve in the approaching PARLIAMENT.

Being an Argument relating to the Point of Succession to the CROWN, &c.

Fort. *of the Court of Parliament.* Si antiquitatem spectes est vetustissima, si dignitatem est honoratissima, si jurisdictionem est capacissima.

LONDON,
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THE POWER OF PARLIAMENTS Asserted,

In ANSWER to a LETTER from a Gentleman of Quality to his Friend, &c.

SIR, if *E. F.* had kept himself strictly to his Task, premised in the Title Page: namely, of the great difficulty, which is the true meaning of his two *Epithets* of *Improbable* and *Impossible* of barring the Right Line in the Succession; I should have acquiest, knowing it to be a great Truth, but when, in the height of his Zeal to the Cause, he admits of a barring Law to that purpose, yet he invalidates it, as he would have the Nation believe, to all intents and purposes: his Reasons for that, Worthy Sir, may be worthy Consideration; the Steps that he makes towards it, are in my Opinion not very congruous to his designed End, which must be submitted to the scrutiny of your more discerning Judgment.

He begins first with the Statute of the Queen about Succession. *Whosoever shall, after the Death of the Queen, affirm, That the Parliament of* England *hath not full Power to bind the Crown in Point of Descent or Succession, shall Forfeit his Goods and Chattels.* Which he very Learnedly says, Doth not affect a Member of the Commons, because he is so, neither doth it affect any other Person, because its natural for any Member freely to advise with his Friend about it, with mutual safety: and to prove the latter, I suppose, he tells us what irrefragable Records of Parliament he hath perused, that the Members of the Commons in Ancient time, have sometimes demurred to Pass certain Bills of extraordinary nature, till they had consulted their Countreys they served for. And then shewing his ill Nature to the Statute of *Eliz.* he goes on, and tells us, he hopes his Friend will find he hath Stabb'd it *into the Fifth Rib*, a man that had not Studied to forget Scripture, as the Wicked *Jews* in *Antiochus*'s time, endeavoured to Uncircumcise themselves, would have said *under*, or *in the* 13 *Eliz.* C. 1.

the Fifth Rib, but why ſhould he be quarrell'd with, for his unskilfulneſs in Scripture Language, when he is ſo notoriouſly out in other matters: he tells his Friend, he hath ſearched Records, but that may be queſtioned, when his miſtakes about that Statute are ſo groſs, for the Words are not as he gives e'm. *If any ſhall after the Death of the Queen*, &c. but they are, *If any ſhall, during the Queens life, Claim Right to the Crown*, &c. *Or affirm, That the Laws and Statutes of this Realm do not bind the Right of the Crown, and the Deſcent, Government and Limitation thereof*, &c. Yet though they are Printed in an *Italick* Character, as all expir'd Statutes are, he makes ſo many impertinent flouriſhes and inferences about his own Senſe in the matter, that there is no room to lay any fault upon the Printer; yet it may be theſe miſtakes ariſes from his not truſting the Printed Statutes, becauſe ſometimes faulty, but applying himſelf to the Record, which, for want of skill in that *Obſolete* Hand, cauſed theſe miſtakes; yet from what he ſays, no man knows what meaſures to take, for having afterwards occaſion to have another bout at that Terrible Statute, at the end of his Letter, he makes it talk at another Rate.

This Gentleman you ſee hath but ill luck in his preliminary Attaque, how he behaves himſelf afterwards, is now to be examined, he lays down for his *Maxim*, That the *Parliament of* England
Pag. 2. *cannot by their Act Exclude or Diſable the next Heir of Blood Royal from Succeſſion to the Imperial Crown of this Nation*, when he hath made out that ——— *Erit mihi magnus* Apollo. For this aſſertion, he gives ſeveral Reaſons, ſuch as they are.

For his firſt Reaſon, he alledges, *That the Succeſſion to the Crown is unſeparably annexed to proximity of Blood by the Laws of God and Nature.*

Secondly, *Statute Laws contrarient to thoſe, are Null and Voyd.* To make good his firſt Reaſon, he offers at the 27 of *Numb.* which he calls the Statute Law, which God himſelf pronounced for ordering the deſcent of Honors and Poſſeſſions, (to uſe the Authors own Words,) but to ſo little purpoſe, as I am ſorry he lyes under the ſuſpicion of being an *Engliſh* man.

For the firſt part of that Chapter Treats onely about directions concerning the diſpoſal of the Inheritance of *Zelophehads* Daughters, which ſhould be a ſtanding Rule or *a Statute of Judgment to the Children of* Iſrael. The latter part gives an Account about nominating a Succeſſor to *Moſes* in the Kingdom or chief Magiſtracy, upon Gods giving him an Accompt of his approaching Death, in which as may appear by the Text, proximity of Blood was not at all regarded, for though *Moſes* in probability had Sons, becauſe no account of their Deaths, however he had Nephews, yet *Joſhuah* the Son of *Nun*, all others ſet aſide, was preferred for his Graces and excellent Endowments, *And the Lord ſaid unto* Moſes, *thou ſhalt put ſome of thine Honour upon him, that all the Congregation of the Children of* Iſrael *may be Obedient.* Is not this a ſpecial Text to prove deſcent of Honours, according to Proximity of Blood? but I conclude no great matters from that practiſe againſt this Champion for Succeſſion by Blood, neither indeed is any part of *Moſes*'s Law, whether Judicial or Ceremonial, at all Argumentative in our Circumſtances, for if the Statute about *Zelophehads* Daughters was as binding as the Moral Law, then wo worth all Tenants in *Copy-hold* or *Borough Engliſh* for evermore; From hence he goes on to other Scripture Preſidents, to as little purpoſe, and then falls a citing of Fathers to leſs, for what inference can be made to affect the force of our Laws from any thing the Fathers have ſaid about Government?

From thence, to confirm and fortify this his firſt reaſon, he has recourſe to *Bodin* a *Frenchman*, who argues ſtrongly for the deſcent upon the Iſſue Male of the next of Blood, *Sic enim ordo non tantum natura & Divina Legis ſed etiam omnium ubique gentium poſtulat*, for ſo, ſays he, not only the Order of Nature and Divine Right, but of all Nations do require it. A notable Advocate for the Kings of *England*, who claim by the Female, Then he falls to Cite a Company of *Civilians* with hard Names, as pertinent to his Deſign, as if he had *Prayed Aid* from the *Jewiſh Talmud*, or the Old *Arabian* Doctors, but at laſt, as if he was Conſcious of ſome miſtakes, he is content to leave the Argument to Civilians and Divines, who are as proper for it, *quatenus* ſo, as ſuch, as the Lord Mayor of *London* and Court of Aldermen.

Now he falls into an Heroick Harangue, and tells us it is moſt Evident, but how, he hath not told yet, *that all the Humane Acts and Powers in the World, cannot hinder the deſcent of the Crown upon the next Heir of Blood*, to make this out, he tells you of *Watſons* Caſe, *of the Kings Daughter dying*, as if limiting the Succeſſion would alter it: After all, he takes a great deal of pains

to

to prove Allegiance due to Kings, from the form of the Indictments for high Treason, as if any Body in their right Wits would deny it.

Now he falls to a very confident but undue concluding the Question, and says, as the Common Law is more worthy than the Statute Law, so the Law of Nature is more worthy than that, from thence he Tryumphantly concludes, *no Humane Power can hinder the descent upon the Right Heir of the Crown.* Because Allegiance to the King is due by the Law of Nature, as he proves by the forms of the Indictments before spoken of, which no body will deny, though they cannot agree with *E. F.* in the Conclusion, as being too foreign to the point, especially when it is obvious, how that every day both the Common Law and the Law of Nature are impos'd upon, and set aside by the Statute Law in something or other; for the first it is known to every little Pettifogger, to the latter I shall speak hereafter: This Common Law, that he, so much without all reason cryes up, as if he had by some Vow abandon'd the Divine faculty of the Soul, as People do when they turn Papists, received its vigor from a meaner Power, than the Statute Law, for it had its Sanction from the Conqueror alone, who had right here, neither by God nor Nature. In the preamble to the confirmation of St. *Edwards* Laws, which he made the Fourth of his Reign, you may find these Words, *Electi igitur de singulis totius patriæ comitatibus viri duodecem quo ad possent recto traimite incedentes, nec ad dextram nec ad sinistram divertentes Legum suarum, & consuetudinum sancita patefacerent nihil prætermittentes, nil addentes, nil prævaricando mutantes.* Sp. Glos. L. 1. C. 6.

Twelve men of every County being chosen, did first make Oath before the King, that to their Power, they would without any deviation to the right hand, or the left, discover the Sanction of their Laws and Customs, pretermitting nothing, adding nothing changing by prevarication, the Commissioners made their return, and the practice hath gone since accordingly, but when the Statute Law breaks in upon it, and for the better ease and instruction of the People, they were turned into *French.* This was the Original and Growth of the Common Law, so Sacred with my Author.

Yet *E. F.* mistrusting I suppose, the efficacy of what he has said, shuffles all off to the Law of Nature, about which he had been nibbling a little all along, and declares it not abrogable by any Humane Power, and from thence concludes an incapability of disherison by Parliament, as being but a Humane Power; Then the Gentleman falls on to Illustrate his *Dogmatismes* by Examples of our own Stories to as little purpose as the rest; He tells you that the Second *William* Usurped upon *Robert* his Elder Brother, which cannot be Granted, for *William* claimed by virtue of the Conquerors Will, who (after the example of the Patriarch *Jacob*, who gave to *Joseph* his younger Son, the Land which he had taken with his Sword and his Bow) gave his younger Son, his *English* Acquisition: 'tis true *Robert* made a bustle, but all was compounded for 3000 marks *per Annum* at present and the Crown in reversion: now though the Intrinsick value of that Summ be mnch more than so much now, yet it falls far short of any thing like a valuable compensation. To clear now the Usurpation of *William* the Second, I offer this Foreign Story, *Alphonso* of *Arragon* Conquered the Kingdom of *Naples*, and gave it to his base Son *Ferdinand*, his lawful Son Succeeded him in the Crown of *Arragon*, *Sicill*, *Ferdinands* Posterity enjoyed it, without any imputation of Usurpation by any Writers of that or any succeeding Age, until they were expuls'd by the *French* Arms, the Treachery of the *Spaniards* concurring.

Then he tells you, without any regard to Truth, though it be to no purpose, of the Establishment of *H.* the II. in whom the *Saxon* line was restor'd, as he saith, his Grandmother being the next Heir to *Edgar Atheling*: which all that knows History, must conclude a notorious untruth, for *Edgar* King of *Scotland* was Brother uterine to that Lady, whose Posterity is yet undetermin'd, this Gentleman by these petty remarks, I suppose, will put in for a compurgatour at the Tryal of the next Traytors, being as well qualifyed as any Young man of St. *Omers.*

From thence, after some impertinent digression, concerning the Multitude of men, kill'd in the Civil Wars' twixt *York* and *Lancaster*, he comes to Records, which he seems to set a great value upon, and tells us, That the entayl of the Crown upon *H.* 4. and his Heirs, was over ruled by *Rich.* Duke of *Yorks* Friends; and gives you the Words *Pro* and *Con*, and likewise tells you it had the same Success under *Edw.* 4. and from thence Magisterially concludes, *That a Title of that Sublimity and Grandeur is not at all impeachable even by Act of Parliament.* Now any man of common sense would have given another reason, than the sublimity of the Title to have defeated that

Act, namely, the incompetency of the Parliament that past it, being not rightly Constituted, as not Conven'd by a Legal Authority, under a Lawful King, that was the true reason of its faileur, though others may be fancyed, which more fully appears from the invalidity of all the Acts of Parliament by the Three *Henryes*, till Confirm'd in *Edward* the IV. time, as may appear by the Statute of Confirmation, to which I refer the Inquisitive.

E.d 4. C. 1.

Now further to confirm what he would be at, he puts a modest Case of the King and his Three Estates, for thats the natural meaning of the Word *Parliament*, of passing an Act, that no man should Hononr the King or Love his Parents or Children, or give Alms to the Poor, or pey Tithes to the Parson of the Parish, it would be Void in it self, as

L. 1. C. 6.

The better to adjust his two later Examples, he Cites *Doctor* and *Student*, * and 21 *H.* 7. 2. but still according to his wonted ingenuity, for the Doctors Words there are, *if it were Ordained, that no Almes should be given for no necessity, the Custom and Statute were void*, yet he with the same Wind determines, that the Statute of 23 of *Edw.* III. since repealed, which forbad, under the Penalty of ImPrisonment, every man to give Almes to any Valiant Beggers, as he terms them (which I suppose were the Words of the Statute) that may well labour, that so they may be compelled to labour for their Living, *to be a good Statute, for it observed the intent of the Law of God*, there is a later since made, that so modifies Almes giving, that it is not to be done at all times and all places under a penalty: so that Authority makes nothing for his Case, his other is like 151 Psalm. no such thing in being, for the last Act of *H.* 7. was in the 19 of his Reign as may appear by the Printed Statute, which passes in all Courts for Record and *uncontraversable* Evidence.

Then Dictator like, he concludes, after all this foisting, that he hath proved his two first Propositions, *That the Succession of the Crown in* England, *is inseparably annexed to Proximity of Blood, by the Laws of God and Nature, and that Statutes contrarient to such are Voyd, from whence* it necessarily follows, *as he says. That the Heir of the Blood Royal, cannot be barr'd from Succession by Parliament*, what need he now say any more? but being satisfied, I suppose, of proving nothing all this while, he goes on to his second Reason. *That the Succession of the Crown to the next Heir of Blood, is a Fundamental Constitution*; to confirm this now, which no body will deny, he Cites Sir *Edward Cooke*, but now, whither that or any other Fundamental, or any thing so called, be not alterable by Parliament, is the Question, about which Words the Gentleman seems to be fallacious, for if by that Word, he means only the major of Lords and Commons, excluding the King, as he seems to do, by so slightly speaking of their Power, he is in the right, but if by Parliament, he means as the Law means, he is (as I hope to make it appear) mistaken, now he would run down the reasonableness of their Authority, from Consequences, for if says he, *a Parliament may alter such a Constitution, then the Monarchy of* England *will become Elective in a short space*: but why, he does not so much as offer at, but he says it, and thats enough, well, if it should be Elective; as long as all parties concern'd are agreed, no sin against the Holy Ghost, I hope: *Poland* is an Example in this Case, which became an Elective Kingdom, from Despotical, upon the fayling of the Posterity of *Crocus* in *Popielus* the second; as *Denmark*, hath of late by consent of their Estates, become an Hereditary, from an Elective *Monarchy*, but nothing of that can be here, without the Royal Assent, which as in probability, it will never be demanded, so it will never be granted to that, then that fear is out of Doors.

Then he goes on with a company of lofty words, about the Oriency of the Pearl of Succession, and tells you that *the Kings of* England *themselves, their Chancellors, Treasurers, and all great Officers of State, their Privy Councellors and Judges, are all by the Provision of the Law, sworn upon the Holy Evangelists, to defend and maintain the Rights of the Crown, and that they suffer no Disherison or Dammage to accrue thereto*, and very gravely cites *Poulton* for his Authority: this is very disingeniously done, for that President he so much raves on, is only the Form of the Oath for Justices, by which name Judges were then called, to take upon admittance, which I suppose, they may do at this day, to their Offices, which was amongst other things, *That they should not assent to any thing in Damage or Disherison to our Lord the King, nor to know any such Damage or Disherison, but to reveal or cause it to be revealed unto him*; not a word of the Rights of the Crown, which are, I suppose foisted in, the better to impose upon the World, that the Judges, *&c.* are bound by the Tenure of their Oath, to hinder any Law, to alter the Succession; the words do not at all look forward, but are only as to what may concern the King Regnant, to whom they are sworn.

P. 9.

1. *Edw.* 3. 18.

'Tis a great fayleur in our Law, that there is no punishment, for such Impudent mis-citers of Re-

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cords, to serve a turn: for, without doubt they are within the Equity of the Pillory for their officious pains and industry.

Next he comes to a great Remarque in Parliament, which he cites the Roll for; namely, that the Lords and Commons, being demanded their Advice by the King, in a matter relating the Crown, did Answer with one Voice, *That they could not Assent to any thing in Parliament, that tended to the disherison of the King, and his Heirs, or the Crown, whereto they were Sworn*: This looks like somewhat, but will not appear much, upon strickt Inspection: The Story is thus; The Arch-Bishop of *Canterbury*, declared in that Parliament, that the Offers of *David Bruce* of *Scotland* for Peace were, *so as he might freely Enjoy to him the whole Realm of* Scotland, *without any subjection*, &c. The Lords and Commons, being willed to give their Advice, made several Answers, *That they could not Assent to any such Peace, but to the disherison of the King, and of his Crown, and to the great danger of themselves, being Sworn to the same.* That Answer now, resolves only into this, it sets forth the ill consequence of such a Peace, not much considered it may be before, as the Disherison of the King of the Fee of *Scotland*, which his Parliament could not, that is, were unwilling to Assent to an usual Form of denyal amongst great men, it does not at all declare their incapability through want of Power, for had that been the Case, the Kings Council would not have been so weak as to have put it to them. But Sir *Edward Cokes* Comment upon the Record makes all out, as he says, in *Margine* or the *Margent* of Inst. 4. 14. *no King can Alien the Crown, though by Consent of Lords and Commons*, then my Author is at his old Ward again, for my Lord *Cookes* Words are not so full, but only Declarative, what were the Words of the Parliament at that time, what his Opinion was of the Power of that High Court, I shall shew hereafter; Then he comes to a late Example of the recognition to King *James*, in which that Kings Title is acknowledged, *and the Parliament doth Humbly beseech the King to Accept the Recognition not only to himself but to his Heir forever, nay, they go further, they desire that this Recognition may have the Royal Assent*, &c. I Wonder now this should be urged, for nothing of Virtue can be conveyed by an Act of Parliament to that Title that's derived from God and Nature, because one Parliament may undo the Acts of any of their Predecessors, nay *Magna Charta* it self is not shotfree, notwithstanding the Statute, that says, all Judgments against *Magna Charta* shall be Void.

4 Edw. 3.

1 Jac. C. 1.

25 Ed. 1. C. 2.

Next he tells you, *That the Right Heir of the Crown cannot be Barr'd or Excluded by Act of Parliament, Because the descent of the Crown in an Instant absolutely Purgeth and Dischargeth all Obstructions and Incapacities whatsoever, Created by the same Act of Parliament*, but now, if an Act of Parliament hinder that descent, that Argument is Non-suit, notwithstanding all his Examples according to his usual way, to no purpose, no Case alledged being any thing Parallel to that he pretends to; One great Argument he hath is, That the Law of the Crown differs from Subjects in point of descents, as descending to an Alien, no Coheirs in the Case, no Tenancy by Courtesy, Descent by half Bloud, as all Honours do, *And therefore that may be Law in Case of the Crown, which is not in Case of the Subject.* So not to be affected by Parliament as he would imply, or else he says nothing; by that Rule Copy-hold Tenure and Gavel kind are exempted too, because their Descents are not like the Common Law, a pretty Consequence.

p. 15.

I must now take Notice how this unworthy Son of the Church of *England*, as he, and I think truly terms himself, Treats Queen *Elizabeth*, though it be out of my Province to say any thing in justification of the usage of the Queen of *Scots*, yet I must vindicate that great Queen from his Black Calumny: after a kind Expression or two about the *Scots* Queen, he tells you, That Queen *Elizabeth* Inheriting her Fathers *Malaversion* to the House of *Scotland*, sent her to a loathsom Prison, 'tis true, She was a Prisoner at large under the Care of the Earl of *Shrewsbury*, where nothing of Liberty was denyed her but Access to the Queen, until she fell into the Correspondence with *Babington*, &c.

He tells you farther, That the generality of Mankind lookt upon *Maryes* Title to

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the Crown better than the other, *Elizabeth* being Bastardized and rendred uncapable by Act of Parliament, yet unrepealed, at leastwise but a Statute Queen, as he unmannerly Terms her, when he Treats Queen *Mary* her Sister, who was in his Sense but a Statute Queen at another rate, for in the Dispute betwixt her and the Lady *Jane Grey*, he brings in an Historian, saying *Tali & constanti veneratione nos Angli legitimos Reges prosequimur ut ab eorum debito obsequio*, &c. By him thus Englished: Such and so constant a Veneration have we *Englishmen* for our Lawful Princes, that we are not to be drawn from our due Obedience, *&c.* Here Queen *Mary* notwithstanding her being Bastardized by Parliament is allowed a lawful Queen, but Religion covered her Nakedness, which laid the others more open; but our Protestant is now come to himself, for Cat will be Cat still.

I must ask this Protestant now who they were that Judged Queen *Maryes* Title better than Queen *Elizabeth*, it was not the Parliament, for Queen *Elizabeth* was Proclaimed Queen by a Popish Parliament, sitting at her Sisters Death, she was so by *Heath* the Chancellor, Arch-Bishop of *York*, She was allowed to be so by the Pope, and so Stiled, till his Holiness published his Bull against her, she was so Stiled by all Christian Princes, except you will say, *Francis* the Second of *France* his Quartering her Arms was an implication to the contrary, though he never had the Courage to justify it.

Besides all these, my Author may remember what he allowed to be Law once in Her Case, and in the Case of *Hen.* the Seventh, *That the Crown takes away all Defects in Blood and incapacities by Parliament, and from that time that the King* viz. Henry the Seventh *did Assume the Crown, all Impediments were discharged.*

I have now run over the most material Points of his Arguments about Succession, to which I shall now oppose something of my own: I shall lay down for my Position, *That the Parliament may make what Laws they please, even against the Law of Nature, which nevertheless shall be Binding.*

But before I enter any further I premise this, That my Design is only to set forth the Power of a King environed with his Three Estates, *more terible than an Army with Banners*; His Power is then like that King *Solomon* speaks of, *In the Word of a King there is Power, who may say unto him, What dost thou:* it is not at all to Direct or Advise to make use of it, hoping there may never be occasion for it.

In order now to the making good my assertion, its fit to Examine a little what the Law of Nature is, or what is meant by it, which he was never so kind to do; though he make such a noyse about the Words, yet he would never tell us what he meant by them, which by his good Favour, is a kind of (if not absolute) *Jargon* or Canting; one of the Fathers defines it to be *impressio divini luminis* an impression in us, and a participation of the Eternal Light in the rational Creature. Another says, *It is an Act of Reason taken properly*, Man now being a Creature adopted to Society is allowed by Natures Law (which according to which Definition you please) is nothing but rectified reason, to improve it, as far as he pleases, saving to every man the like Liberty, either by way of commerce or otherways, notwithstanding now this natural liberty, nothing's more ordinary than to rescind it, as in Case of Warrs betwixt Country, and Country, or upon other State accounts, *yet no complaining in our Streets*, by the Law of Nature every man is free to follow what Profession he pleases, yet you see how there are restriction layd dayly in the Case upon men, and such and such Trades confin'd to such, and such Societyes of Men, as the *East-Indy*, *Guiny* Companys, *&c.* or else to persons qualified, by the contemptible Statute Law (as the Learned Author would intimate) to follow them, yet not a word of these Violations, upon the sacred Law of Nature; nay to come more Home, and familiarly to the Case, the great Law of Nature is violated in the Statute that declares who are, and what shall be the punishment of Rogues, yet the most strict Casuist, never wrote, nor much spoke against them. If now upon an Indictment *E. F.* should be enterteyned upon the Traverse, who would

Aquinas.

would make us believe he is a Lawyer', to run down those Acts as Invalid, because violences upon the Law of Nature, (as he doth endeavour to run down one though not yet in Embryo, if it should pass into an Act, upon the same Account,) he would pass for a Quaker, or one Candidate for the new Palace in *Moresfields*, nay *Polygamy* is not against the Law of Nature, yet the restrictions upon it, I hope by *E. F's.* leave, are pardonable.

It will not be amiss now in order to our end, to examine how those Laws of Nature for Succession, according to Proximity of Blood are regarded in other *Christian* Countreys, they are set aside in all Elective Kingdoms, as the Empire, the Kingdom of *Poland*, the Titulado Dukedom of *Venice*, nay the Kingdom of *France*, which is *E.F.s* beloved president, gives no regard to the Example of *Zelophehads* Daughters, though he lay such stress upon it in another case; besides how many times, without regard to the Male Line it self, hath that Line bin altered? yet none disputes that Kings Title, but to say the Truth, the Pope, who alone may dispose of Succession, had a hand in advancing the *Carolingian* Line, to the prejudice of the *Merovinian*, which like *Offa Cerbero*, a sop to *Cerberus*, keeps the Cur from snarling,.

How was that Law of Nature violated by the guist of the Dauphinale to the Crown of *France*, by the Union of the Kingdom of *Navarr* and Dutchy of *Britain* to the said Crown? By Virtue of which Union, *Britagne* is enjoyed by the French King, when the Right of Proximity of Blood lyes in the House of *Savoy* to no purpose. If Natures Law be Violable, or hath bin violated in one place, without Taxation of Injustice, at the Discretion of the Supreme Power, which in every Constitution of Government is lodged somwhere, as by these Examples is made out, then it may admit of Violations again under the like Circumstances, that is of Safety and Security, for those were the true ends of those Unions, For that rule of Living, *Quod tibi fieri non vis alteri ne feceris*, what thou wouldst not have done to thy self, do not to another, improved by the Law of Grace to, *whatsoever you would that Men should do unto you, that do unto them*: does not at all reach Communityes or Societyes of Men, as may modestly be offered, otherways Malefactours might make use of that *Plea* against the security of the Laws in their concerns; now a great Latitude must be allowed to the Legislative Power, in making Laws upon emergent occasions to provide for the Publick safety, otherwayes our Sanguinary Laws against Robbery and Polygamy, being contrary to the Laws of God, which directs otherways in the former, and allowed, the latter must fall under a severe censure.

I shall now hasten to Conclusion only subjoyn somwhat about *Henry the Seventh, Whose Laws E. F.* says my Lord *Bacon Comments* (because he says somthing in his Case) very handsomly upon, That King past two Notable Statutes, as he says, one that *the Crown should rest and abide to himself and his Heirs, &c.* The other that all persons should *be indemnifyed that served the King for the time being in his Warrs, This Law* says my Lord *Bacon, had in it parts of prudent and deep foresight, for it took away occasion for the People to busy themselves in prying into the Kings Title to the Crown: for howsoever that fell out, good or bad, the peoples safety was provided for.* The same Author in the close of that Kings Life, accounts it amongst his Blessings that he dyed so soon, *viz.* before the Prince comes to mans Estate, who, in likelyhood considering his great Spirit, would not have sitten down under the Law of settlement, but have seazed the present Possession of the Crown, as his Right by common Law, the Curtesy not reaching the case of the Crown, as has bin sayd before, This *E.F.* is mighty fond on, as coming from so great a Man, but to examine the matter over again, I cannot see notwithstanding my Lord *Bacons* Authority, how the Peoples safety was provided for by the Law of indemnity, if the Kings was not by the Statute of settlement; For if once *Henry the Seventh* had fallen under the Power of his Son, as there has often hapned such Cases or any other Pretender, of the House of *York*, the Statute of safety for the People, as well as that of settlement for the King had bin equally out of Doors, by alledging that *Henry the Seventh* was no Legall King, so no Legall Parliament, like those of the three

Henries

Henryes, and therefore nothing of that King binding. I wonder therefore so great a Man as my Lord *Bacon* should branch at so empty a Rate, but more that so palpable a nothing should pass upon a man, that has such Skill in that Knotty way of Argumentation, as *E. F.* pretends to have.

Now that something has been said to prove that Parliaments have done, and do daily encroach upon the Law of Nature, without the least grumbling imaginable, I shall give some Scripture Presidents when Proximity of Blood, the thing insisted upon, in the Case of Government hath not been much regarded, yet no absolute proof of Gods immediate Command in the Case, *Cain* was set aside for *Seth*, *Sem* is not agreed to have bin the Elder Brother, whether *Abraham* was or no, is likewise a Question, but to be sure neither *Isaac* nor *Jacob* were, *Reuben*, *Simeon* and *Levi* were set aside for their Vices, and the Dominion of all given to *Judah*; but these Examples may be Objected against, because the times before the Flood were dark; and the other may be said to be in relation to Spirituals; because none of them had, as appears, many to exercise a Royal Authority over, but a Royal Power some did Exercise as is Evident by *Abrahams* Offering to Sacrifice his Son, and *Judah's* commanding his Daughter in Law to be burnt, which none but an unaccountable person could do: From the time of *Moses* unto *David* Proximity of Blood was not regarded, *Joshuah* of another Tribe succeeded *Moses* in the Monarchy, the Succession going at the same rate amongst all the Judges, except in the Case of *Abimelech*, whose manners and Success are not very Argumentative for the Traverse: now That those Judges were Kings, or so esteemed, is plain from the Text, *In those days there was no King in* Israel, *but every man*, &c. because at that time when that Villany was committed by the *Benjamites*, then was an *Inter regnum*, none to Judge the People as formerly.

The *Asmonean* Family or *Machabees* began at the same Rate, for *Mattathias* who got a party to oppose the Wicked proceedings of that ungodly *Antiochus Epiphanes*, when he dyed, bequeathed the Captainship of *Israel*, which he had exercised amongst them successfully for a while, unto *Judas* his Third Son, as the most fit, setting aside *Simon* his Eldest, though a worthy person, which he made appear when he came after the Death of *Jonathan* his Younger Brother, to the Administration of Publick affairs, no immediate hand of God in this, as may be said in the other, for then there was no Prophet in *Israel* to direct them, the *Theocracy* being determined, as may appear from *Mach.* 1. *Cap.* 4. *Ver.* 46. *And they laid up the Stones in the Mountain of the Temple in a convenient place until there should come a Prophet to shew what should be done with them.*

For a parting blow, now in Answer to what is or can be said in the Case, I shall lay down this Thesis, *That Statute Laws though contrarient to the Laws of God are binding*, this I shall make out by pertinent Examples, an unanswerable Argument of the Power, though perhaps not of the Justice of Parliaments; concerning their Power I will give you my Lord *Cookes* Sense, whose Authority my Author seems to value elsewhere.

The Power and Jurisdiction of Parliament for making of Laws in proceeding by Bill, is so transcendent and absolute, as it cannot be confined either for Causes or Persons within any bounds, to whose unlimited power the Judge applyes the Verse of *Virgil.*

Inst. 4. c. 1.

Hic ego nec metas rerum; nec tempora pono,

Intimating the same, I must now to make my position good give you some Examples of their Extravagancies, yet binding Acts, *Jan.* 26. *An.* 14. *Edw.* 4. It was Enacted that *Henry* Duke of *Buckingham* should be to all Intents and purposes reputed and taken a person of full Age of 21 years. It may Bastardize a Child that is by Law Legitimate. as in *Marys Winc. Case* 5. 6. *Ed.* 6. It may Bastardize *Secundum quid* as to part, to bar the Fathers Inheritance

heritance, and not the Mothers, as the late case of the Children of the Lady *Anne Pierpoint*, it can Legitimate Totally or *Secundum quid*, as in the Case of the Children of the Duke of *Lancaster*, who were Legitimated to all Capacities but the Crown; it can allow a man to marry another Wife, his former being living, as the Case of *L. R.* nay it can dispense with a new intermarriage to both parties, no peccancy in the Case, as the King and the Lady *Anne* of *Cleve*. 23 *H.* 8. *C.* 25.

If these Examples now be not at least some of them contrary to Gods Law, I'me in the dark, what is; There being a positive Text in one Case; as *Whom God hath joyned together, let no man put asunder*; and the other so signally Anathematized, as it may be said by *Moses*, *A Bastard shall not enter into the Congregation of the Lord, even to the Tenth Generation*: But of all the Examples of their Power, there is none greater than that of *T. Cromwell*, Earl of *Essex*, whose Story is commonly mistaken, but it lyes thus; the King Commanded the Earl to attend the Chief Justices, To know whether a man that was forthcoming might be Attainted by Parliament of Treason and never called to his Answer? The Judges made Answer, That it was a dangerous question, The High Court of Parliament ought to give Examples to Inferiour Courts, and none of them could do the like, and they thought that the Parliament would never do it, but being prest again by a second Message for a Positive Answer, They said, If he be Attainted, it could not come in question afterwards, whether he was called or no, The Earl soon after was sent to Prison, Attainted without being called to Answer and Executed accordingly. *Deut.* 23. 2.

That this Statute was contrary to Gods Law, none will Dispute, that Considers that saying of *Nichodemus*; *Doth our Law judge any man before it hear him, and know what he doth*, now as much contrarient, to use *E. F*'s. new Word once more, as this Law was and is to Gods Law; its so far from being Voyd in respect of that, that it Works to this day, that Family Suffering under it yet, as deprived by virtue of that harsh Attainder, of the Earldom of *Essex*, which no Prince or Parliament ever yet took notice of to the Advantage of that Injured Lord. *I.* 7. 51: *De.* 17. 10. 8. 19. 15.

I shall give you another Instance; that Acts of Parliaments against the Law of God *quoad forum humanum*, though not in *foro Conscientiæ*, to man-ward, though not to God-ward are binding, which is to be so understood by my position at the beginning of this *Paragraph*, for though we must chuse rather *to Obey God than Man*, yet to Oppose by force an Act so made, *viz.* contrary to Gods Law, is Treason by mans Law, as it may be Circumstanced, my Presidents are such as both Papists and Protestant *E. F.* and *G. H.* will agree to be such: The Bloody Statute of the VI Articles which made Popery a Statute Religion, as well, as some say, that Protestanism is made so since, was against all the Rules and Methods of Christianity, and consequently against the Laws of God, as all Protestants hold, yet it must be allowed to be binding, as long as it lasted: The Papists, *viz. E. F.* and his Fellow Clubbers at the Compendium of the Plot, that bundle of Lyes and Ill manners, without doubt think, and upon Occasion, will say, that our Sanguinary Laws against Priests are against the Laws of God, yet even they will not deny but they are binding *Quoad Forum Humanum* to manward.

Now as Conclusive, and in Answer concerning what he says, That his Sacred Majesty that now is, will not suffer in his time, a Pearl of this Magnitude and Oriency, to be Ravished by any hands out of the Imperial Diadem of this Realm, I shall offer this, That a Declarative Act of that Power in the Parliament is the greatest Security to any Prince Regnant, in the Case of a contingent remainder, as I will put a Case, which may, but I hope will never be our own, admit the now Queen of *Spain*, happen to be the next remainder or Presumptive Heir, which God forbid; and being Acted by her Husbands and other Popish Councils should without natural Affection, which is always with them postpond to Religion, attempt to remove the Obstruction by Vile Agents, *Quis tot referre facinorum formas potest, Regnum petentis per gradum omnium scelerum.*

Who can expreſs the Methods of Impieties in them that ambitiouſly ſeek after a Kingdom, commit inſolent overtacts, as quartering the Arms of *England*, as *Mary* of *Scotland* did when Queen of *France*, which might be the occaſion with the *continuando* of that Act of the 13 of *Eliz.* ſo much talked on, nay admit her Husband the King of *Spain*, ſhould make open War, by attempting an Invaſion, and Claim the preſent Poſſeſſion of the Crown, as devolved unto the Pope for Hereſy, and from him conſigned unto that King, who without doubt hath as good a Title to the Crown of *England*, as *Julio* II. had to *Navarr*, yet the King of *Spain* holds upper *Navarr*, that is all in a manner worth holding, by Virtue of that Grant to this very day, its well enough known how other Crowns too have been diſpoſed on by the See of *Rome*, what ſhall we in ſuch a Caſe ſit and Sigh, and feed our Fancies with a company of inſignificant Wiſhes, Hang up a Rogue or too when we can catch e'm, and behave our ſelves like the fooliſh Jews, who tamely let their Throats be Cut on the Sabbath day without reſiſtance, ſhall we with them ſay? *Let us die in our Innocency, Heaven and Earth ſhall teſtify for us, That you put us to Death Wrongfully.*

The Example of Spain *diſinhersting the Daughter.*

Mac. L. 1. *C.* 3. *V.* 36. 37.

Spain in the late Marriage with *France*, provided againſt all Contingencies of that Nature, by making the Daughter of *Spain* renounce all pretenſions to the Crown, in Caſe it ſhould happen to be her Right, and though it may be Objected, it was not Injurious, becauſe of her Aſſent, yet whoſo Conſiders Her Young Years, will not Argue much from thence.

If there was no Remedy in ſuch a Caſe, eſpecially when there is a natural impoſſibility of defeating the Preſumptive Heir, by natural means, as in the Caſe of the late great Queen, what encouragement can any man have to do his Duty, in Defending the preſent Succeſſour from the practiſes of the Impatient Heir, when he is ſure to be at laſt layd open to all Injuries imaginable; The Holy League to prevent that, Petitioned the Conſiſtory at *Rome*, That they might have leave to *overthrow the Succeſſion in a full Aſſembly of the States, and to make the naming of a Succeſſor Subject unto the ſaid States*, yet none of that Party concerned themſelves much, with the unreaſonableneſs of that Petition, being ſatisfied I ſuppoſe, with the expediency of the thing.

Therefore ſince that no Laws can be, or has been made, but ſuch as ſhall at ſome time entrench upon ſome particulars. It reſts then naturally in the Supremacy to add what new ones it in reaſon ſhall think fit, that being the only proper Judge of all Conveniences in that Caſe, to think otherwiſe were to diſmantle and diſarm the Government, by making it ſo defective, as not to be able to provide either for its own Support or our Security, a Parliament, *viz.* the King and his Three Eſtates, being then the only Remedy in ſuch a Juncture: I ſhall apply for a Concluſion to that uncontroulable and unaccountable Authority, the 33. 34. Verſes of *Job.* 41. *Upon Earth there is none like him, who is made without fear, He beholdeth all High things, He is a King over all the Children of Pride.*

no more Worthy Sir, but I am

Your Humble Servant,

G. H.

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